

7/06/07 2:23:20  
BK 2,750 PG 544  
DESOTO COUNTY, MS  
W.E. DAVIS, CH CLERK

7/06/07 2:22:31  
BK 563 PG 64  
DESOTO COUNTY, MS  
W.E. DAVIS, CH CLERK

INDEXING INSTRUCTIONS: Lots 3, 4, 5 and 6, Bobwhite Farm  
Subdivision per Plat Book 83, Page 10 and Lot 7 of "Bobwhite Farm  
Subdivision, Lots 7, 8, 9, 10, 11, 12, 13 and C.O.S." per Plat Book 88,  
Page, 36, Southaven, DeSoto County, MS

V-464 - 09/01/04

## FIRST AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT

This First Amendment to Reciprocal Easement Agreement ("First Amendment") is made as of the 15 day of October, 2004 between Kroger Limited Partnership I, an Ohio limited partnership, ("Kroger") and National Bank of Commerce, Trustee under will of J.B. Snowden ("Snowden").

### PRELIMINARY STATEMENT

WHEREAS, Kroger and Snowden entered into that certain Reciprocal Easement Agreement ("REA") dated May 29, 2003, which was recorded in Deed book 445, Page 103, in the Register's Office of DeSoto County, Mississippi; and

WHEREAS, Kroger continues to be the owner of Lot 4, which is more particularly described in Exhibit "A" attached to the REA; and

WHEREAS, Snowden continues to be the owner of Lot 3, Lot 5 and Lot 6, all of which are more particularly described in Exhibit "B" attached to the REA; and

WHEREAS, Snowden is the owner of lot 7, which is more particularly described in Exhibit "A" attached hereto and made a part hereof ("Lot 7"); and

WHEREAS, Snowden plans to lease Lot 7 to Bank of Senatobia to develop a 6,000 square foot branch bank plus drive through facility on Lot 7.

WHEREAS, Kroger, and Snowden do now mutually agree to amend the REA as hereinafter provided.

1. Defined Terms: Capitalized terms not defined herein shall have the meanings set forth in the REA.
2. Lot 7. The Plot Plan attached hereto as Exhibit "B" shall replace the Plot Plan attached to the REA as Exhibit "C".
3. Shopping Center. Lot 7 is hereby incorporated into the defined terms of "Shopping Center" and "Lots" throughout the REA, and shall be subject to the benefits and burdens of each.

McGlinchey Stafford  
City Centre South, Suite 1100  
200 South Lamar Street Jackson, MS. 39201

4. Section 2. The first sentence of Section 2.1 is hereby revised as follows:

"Kroger and Snowden hereby establish and grant a non-exclusive access easement over the Common Area in favor of each Lot to permit unobstructed vehicular passage for ingress and egress by the owner thereof and its agents, contractors, employees, tenants licensees and invitees, provided that nothing herein shall prevent the Lot 4 owner or its tenant or licensee from storing bascars or selling merchandise on the Common Area portion of Lot 4, and nothing herein shall prevent the owners of Lot 3, 5, and 6 or their tenants or licensees from selling merchandise on the sidewalks located in said Lots 3, 5, and 6 respectively, provided passable and unobstructed pedestrian and vehicular traffic are maintained, and further provided that nothing herein shall prevent the exclusive use of any receiving area situated on a servient Lot by the owner thereof or its tenants or licensees."

5. Section 6.8. The first sentence of Section 6.8 is hereby amended as follows:

The owner(s) of Lot 3, Lot 5, Lot 6 and Lot 7 shall submit to the owner of Lot 4 exterior elevation and architectural plans for all improvements to be constructed on Lot 3, Lot 5, Lot 6 and Lot 7 for the review and approval of the owner of Lot 4, which approval shall not be unreasonably withheld. Kroger hereby approves of those certain plans and specifications for Lot 7 dated June 16, 2004, but reserves all future approval rights as to Lots 3, 5, 6 and 7 in accordance with the terms of this Section 6.8.

6. Section 9.6. Section 9.6 is hereby deleted in its entirety.

7. No Further Modifications. All other terms and conditions of the REA not expressly modified herein are hereby ratified and confirmed and shall remain unchanged.

8. Successors and Assigns. This First Amendment to the REA shall insure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.


9. Consent. Snowden represents and warrants that it is the owner in fee simple of Lots 3, 5, 6 and 7, and has full power and authority to establish this First Amendment, and that no consent of any lender or third party is required in connection with this First Amendment with the exception of National Bank of Commerce, the holder/beneficiary of a shortage/deed of trust on Lot 3, whose Consent and Subordination of Mortgage/Deed of Trust is attached here to as Exhibit "C".

In Witness whereof, the parties have set their hands this day and year first above written.

WITNESSES:

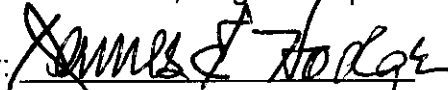
KROGER LIMITED PARTNERSHIP I,  
An Ohio Limited Partnership

By: KRGP Inc., its general partner

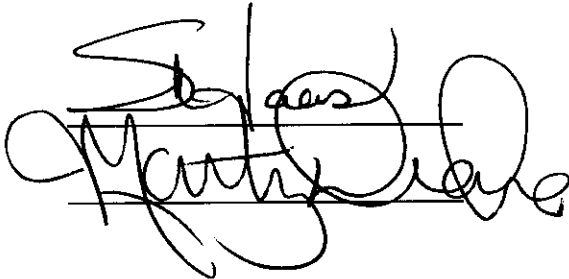
  
\_\_\_\_\_  
Charlene Henderson



By:

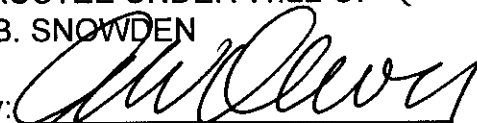
  
\_\_\_\_\_  
James E. Hodge  
Vice President

NATIONAL BANK OF COMMERCE,  
TRUSTEE UNDER WILL OF  
J.B. SNOWDEN

  
\_\_\_\_\_  
Michael Deane

By:

Title:

  
\_\_\_\_\_  
Vice President

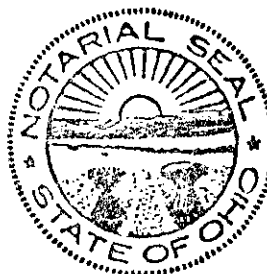
STATE OF OHIO           )  
COUNTY OF HAMILTON )

The foregoing instrument was acknowledged before me this 1 day of October, 2004 by James E. Hodge, the Vice President for KRGP Inc., the general partner of Kroger Limited Partnership I, an Ohio limited partnership, on behalf of the limited partnership.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

Nov. 1, 2004  
My Commission expires

Jennifer Jones  
Notary Public



JENNIFER JONES  
Notary Public, State of Ohio  
My Commission Expires Nov. 1, 2004

Before me, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared A.W. OLIVER, with whom I am personally acquainted, and who upon oath acknowledged himself to be the VICE PRESIDENT of NATIONAL BANK OF COMMERCE, TRUSTEE UNDER WILL OF J.B. SNOWDEN, a national banking association, the within named bargainor, and that he as such VICE PRESIDENT being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the association by himself as VICE PRESIDENT.

**My commission expires:**

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## EXHIBIT A

BK 2,750 PG 548

## LOT 7 LEGAL

THIS IS TO CERTIFY THAT I HAVE SURVEYED THE FOLLOWING DESCRIBED REAL ESTATE IN THE CITY OF SOUTHAVEN, DESOTO COUNTY, MISSISSIPPI AND THAT THIS IS A "CLASS A" SURVEY WITH AN UNADJUSTED CLOSURE ERROR OF 1:10,000 OR GREATER IN ACCORDANCE WITH THE MINIMUM STANDARDS AS SET FORTH BY THE MISSISSIPPI STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND THAT SAID SURVEY WAS MADE BY ME OR UNDER MY DIRECT SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF TO-WIT:

SURVEY OF LOT 7 OF BOBWHITE FARM SUBDIVISION AS RECORDED IN PLAT BOOK 88 PAGE 36 IN THE CHANCERY COURT CLERK'S OFFICE OF DESOTO COUNTY, MISSISSIPPI, BEING LOCATED IN THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 1 SOUTH, RANGE 7 WEST IN THE CITY OF SOUTHAVEN, DESOTO COUNTY, MISSISSIPPI, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE CENTERLINE OF GETWELL ROAD (106' R.O.W.), SAID POINT BEING IN THE WEST LINE OF SECTION 34, TOWNSHIP 1 SOUTH, RANGE 7 WEST AND BEING LOCATED SOUTH 00 DEGREES 46 MINUTES 20 SECONDS EAST - 761.18 FEET FROM THE NORTHWEST CORNER OF SECTION 34 AS MEASURED ALONG SAID WEST LINE OF SECTION 34; THENCE NORTH 89 DEGREES 58 MINUTES 24 SECONDS EAST 53.00 FEET TO A SET IRON PIN IN THE EAST RIGHT-OF-WAY LINE OF GETWELL ROAD ON THE SOUTHWEST CORNER OF LOT 4 OF BOBWHITE FARM SUBDIVISION AS RECORDED IN PLAT BOOK 83 - PAGE 10 (DCCCCO), SAID POINT BEING THE NORTHWEST CORNER OF SAID LOT 7 AND POINT OF BEGINNING OF LOT 7;

THENCE NORTH 89 DEGREES 58 MINUTES 24 SECONDS EAST - 250.02 FEET ALONG THE SOUTH LINE OF SAID LOT 4 TO A SET IRON PIN, THE COMMON NORTH CORNER OF LOT 7 AND COMMON OPEN SPACE; THENCE SOUTH 00 DEGREES 46 MINUTES 20 SECONDS EAST - 204.75 FEET ALONG THE WEST LINE OF SAID COMMON OPEN SPACE AND PARALLEL TO GETWELL ROAD TO A SET IRON PIN ON THE COMMON EAST CORNER OF LOTS 7 AND 8; THENCE SOUTH 89 DEGREES 13 MINUTES 40 SECONDS WEST - 250.00 FEET ALONG THE SOUTH LINE OF LOT 7 AND NORTH LINE OF LOT 8 TO A SET IRON PIN IN THE EAST RIGHT-OF-WAY LINE OF GETWELL ROAD (53 FEET FROM CENTER); THENCE NORTH 00 DEGREES 46 MINUTES 20 SECONDS WEST - 208.00 FEET ALONG THE EAST RIGHT-OF-WAY LINE OF GETWELL ROAD TO THE POINT OF BEGINNING CONTAINING 51,593 SQUARE FEET OR 1.184 ACRES, MORE OR LESS.

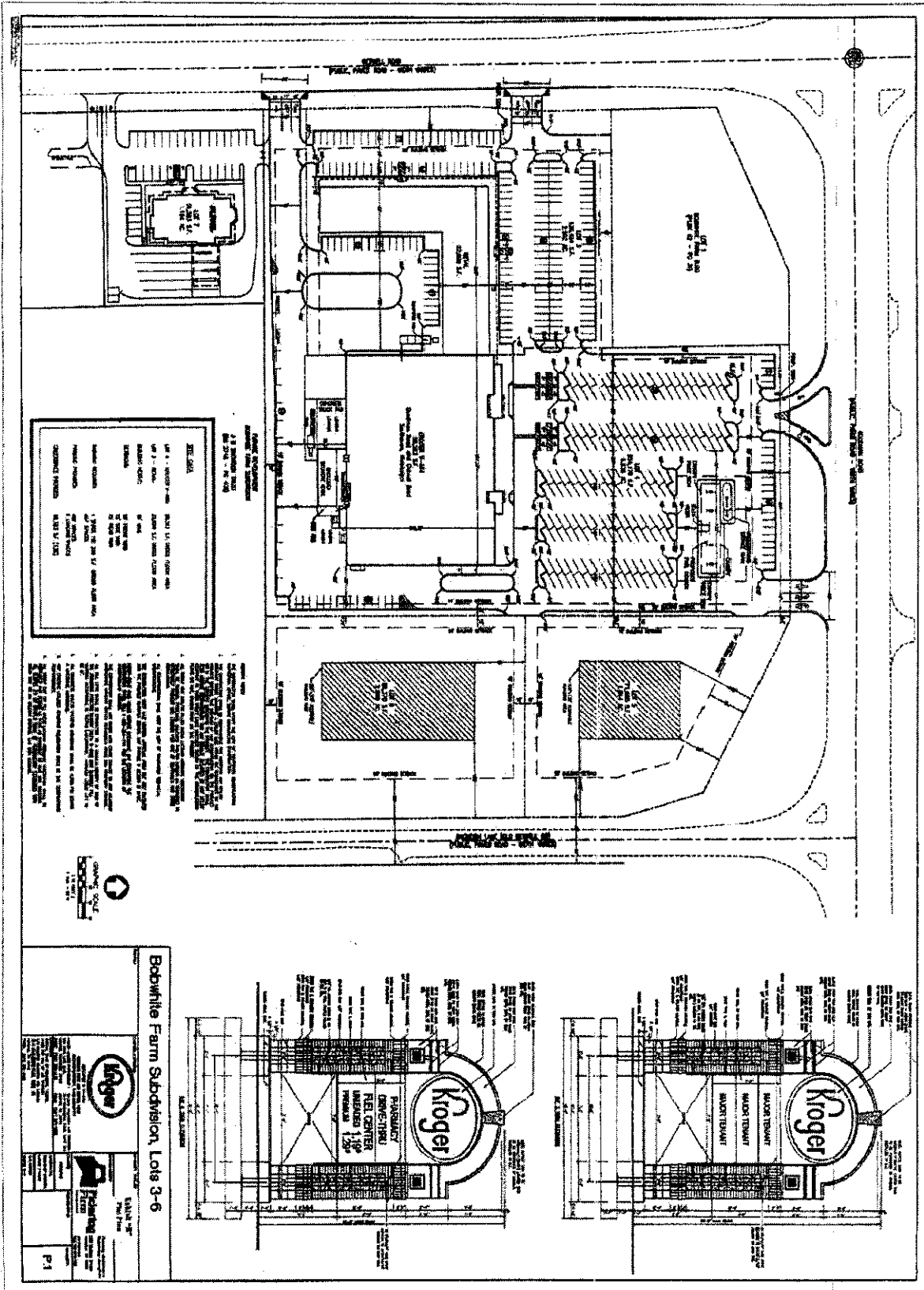


EXHIBIT "C"CONSENT AND SUBORDINATION OF MORTGAGE/DEED OF TRUST

National Bank of Commerce, a national banking association, the holder/beneficiary of a mortgage/deed of trust to the property recorded on 24 NOVEMBER 2003 in the Official Records of DeSoto County, Mississippi, at Book 1876, Page 1, hereby consents to the execution and delivery of the foregoing First Amendment to Reciprocal Easement Agreement, with all exhibits attached thereto, and to the filing thereof in the office of the Recorder of DeSoto County, Mississippi, and further subjects and subordinates the above-described mortgage/deed of trust to the provisions of the foregoing First Amendment to Reciprocal Easement Agreement with all exhibits attached thereto.

IN WITNESS WHEREOF, National Bank of Commerce, by its duly authorized officer, has caused the execution of this Consent and Subordination of Mortgage/Deed of Trust this \_\_\_ day of 21 SEPTEMBER, 2004.

NATIONAL BANK OF COMMERCE,  
A national banking association

By: [Signature]

Printed Name: Jim McCullough

Title: 1st VP

STATE OF TENNESSEE     )  
  ) ss:  
COUNTY OF SHELBY     )

Before me, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared Jim McCullough, with whom I am personally acquainted, and who upon oath acknowledged himself to be the 1st V.P. of NATIONAL BANK OF COMMERCE, a national banking association, the within named bargainor, and that he as such 1st V.P. being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the association by himself as 1st V.P.

WITNESS my hand and official seal this 21st day of September, 2004.

My commission expires:

[Signature]  
Notary Public

